

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SAMUEL WIMBUSH,

Plaintiff,

v.

ORDER
05-CV-419A

HAROLD WETZEL, et al.,

Defendants.

The above-referenced case was referred to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. § 636(b)(1)(B). On November 15, 2006, Magistrate Judge Scott filed a Report and Recommendation, recommending that the motion to dismiss the plaintiffs' claims as asserted against the individual defendants in their official capacity should be granted.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, the motion to dismiss the plaintiffs' claims as asserted against the individual defendants in their official capacity is granted. The case is referred back to Magistrate Judge Scott for further proceedings.

IT IS SO ORDERED.

/s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: December 19, 2006